

REMARKS

Claims 1-4, 10, 12-17 and 28-37 are pending in this application. Claims 1, 2, 4, 10, 12, 16 and 17 are amended. Claims 5-9, 11 and 18-27 are canceled.

The cancellation of claims is in anticipation of the new rules coming into effect on November 1, 2007 related to the number of independent claims and total claims, and is not based upon any prior art or patentability of the subject matter of the canceled claims.

Claim Rejections – 35 USC §102(b)

Applicants respectfully traverse the rejection of claims 1, 3-6, 8-10, 12-15 and 17 under 35 USC 102(b) as being anticipated by (5,470,354) Hershberger et al.

In Hershberger et al., the sensor array appears to be positioned on a flat surface of element 84; the sensor array is not positioned between two curved contoured surfaces. Accordingly, elements 102, 170 and 172 are not sized, shaped and positioned to allow the sensor array to be temporarily secured between two curved contoured surfaces.

Given the positions of elements 102, 170 and 172 in Hershberger et al., one could tighten them or loosen them and it would not affect anything placed between the curved articulating surfaces of components 54 and 80. Trial components 54 and 80 are the components that have articulating surfaces with contours wherein one is shaped to receive the other (along with the provisional patellar component 85) and the sizes, shapes and positions of elements 102, 170, 172 would not have any effect on anything placed between the curved contours of these components 54, 80.

Accordingly, Hershberger et al. does not anticipate claim 1; claim 1 and its dependent claims are patentable over Hershberger et al.

Considering independent claim 10, if element 86 of Hershberger et al. is considered to comprise a protector, it does not have a stud extending between the element 84 and a

surface adjacent a curved concave articulating surface of element 86. Accordingly, Hershberger et al. does not anticipate claim 10.

Considering independent claim 12, if element 86 of Hershberger et al. is considered to comprise a protector, it does not have a curved concave surface, a curved convex surface and a thickness between them that is less than half the thickness of element 84. Accordingly, Hershberger et al. does not anticipate claim 12 and its dependent claims 13-15 and 17.

Conclusion

It is believed that the claims 1-4, 10, 12-17 and 28-37 are in condition for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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